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10/595,145	05/03/2007	Bo Ekstrom	P18227-US1	3318
27045	7590	04/26/2012		
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			EXAMINER CHENG, CHI TANG P	
			ART UNIT	PAPER NUMBER
			2463	
			NOTIFICATION DATE	DELIVERY MODE
			04/26/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/595,145 Examiner PETER CHENG	Applicant(s) EKSTROM ET AL. Art Unit 2463
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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 April 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because:

a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): (a) ☒ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

STATUS OF CLAIMS

14. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: _____

/Anh-Vu Ly/ Acting SPE Art Unit 2463	/P. C./ Examiner, Art Unit 2463
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Continuation of 3. NOTE: Applicant has added new claims 10-13, which recite new limitations. These claims would require further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the outstanding objection to the Specification that the claim limitation "extra port is unique to a particular new session" lacks proper antecedent basis and support in the Specification, Applicant cites Fig. 3 as well as the accompanying text on page 7, lines 11-28 as providing the necessary support. However, the examiner would respectfully disagree that these cited portions would provide the required support. To be sure, the cited portions do disclose that "[i]n the example in figure 3, five media session flows are transported in the MHN" and that "a media session between P11 and PO1 for example is the cause of an extra port XP1", among other teachings and disclosures. The cited portions appear to teach only that there are five "first ports P11-5" and five "second ports PO1-5" and that these ports are coupled to each other by what would appear to be connections, as shown in Figure 3, not sessions. These connections also visually appear to connect to every one of the five "extra ports XP1-5", thus also visually disclosing that all of the "first ports P11-5", "second ports PO1-5" and "extra ports XP1-5" are interconnected to each other. These would appear to be connections though, not necessarily sessions. Regarding sessions, there is the teaching that "a media session between P11 and PO1 for example is the cause of an extra port XP1". There is no teaching that would be obvious to an ordinary artisan that the each of the "five media sessions flows" taught in Fig. 3 are separately connected by separate pairs of ports, as the Applicant seems to imply, and that each of these sessions connected by supposedly separate pairs of ports has its own, unique "extra port". Furthermore, in the same passage, Applicant discloses that "media multiparty sessions between more than two ports in the MHN are treated in a similar manner. If a session is set up between one first port P11 and a number of second ports, PO1-n, an extra port [XP1] is always assigned to this sessions". This teaching regarding "media multiparty sessions" would seem to complicate the scenario in fig. 3; for example, if such "multiparty session" were assigned P11 and "a number of second ports", PO1-5, then there would clearly not be a simple, straightforward one-to-one unique correspondence between "first ports" and "second ports" as Applicant seems to suggest. This leaves open then the possibility that ports are dynamically assigned to sessions, and under such circumstances, it is not at all obvious the cited portions would teach to an ordinary artisan that "extra port is unique to a particular new session".

Applicant further argues that the reference Mazzola does not disclose the same limitation at issue above. Applicant argues that in Mazzola, "Mazzola's network switch can utilize the same one or more ports to forward frames associated with another session from another sending network entity to the same receiving network entities. Stated another way, Mazzola's network switch can utilize the same port to send frames to a particular receiving network entity even when the frames are part of multiple sessions and are sent by multiple sending network entities. Hence, Mazzola does not disclose where the port or ports are unique (i.e., limited) to a particular session but instead discloses where the port is based on the destination address of the receiving network entity and the same receiving network entity can have multiple sessions using the same port with multiple sending network entities". (page 10 of Response) However, the examiner would like to note here that the limitation at issue, "extra port is unique to a particular new session" may also be interpreted as meaning that each particular new session has only one, fixed "extra port" (either hardware or software port(s)) assigned to it; that is, a particular new session is not associated with a first "extra port" now and then subsequently associated with another, different "extra port". This is the scenario taught in Mazzola because the "extra port" taught in Mazzola is associated with a particular session based on its destination and this association of the port with a session/destination is not changed in Mazzola, thus teaching an embodiment of this limitation.

Applicant further argues that the references are not combinable because "the Examiner's suggested combination of [the cited references] would also require a substantial reconstruction and redesign of the elements shown in the primary reference Albers as well as a change in the basic principle under which Albers's system was designed to operate" (page 11 of Response). In response to this argument, please note that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Therefore, with all due respect, this argument is not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, proper motivation to combine was provided in the rejections and thus the examiner respectfully does not find Applicant's arguments against the combinability of the references persuasive..